

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

United States Courts
Southern District of Texas
FILED

UNITED STATES DISTRICT COURT

OCT 16 2024

for the

Southern District of Texas



Nathan Ochsner, Clerk of Court

Houston Division

Penny Bowden Kichamu

Case No. _____

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Windham Independent School District,
Jana Gaffney, Principal

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Penny Kichamu
Street Address	8801 Glencrest, #6310
City and County	Houston, Harris
State and Zip Code	Texas 77061
Telephone Number	832-884-4217
E-mail Address	prkichamu@aol.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

Defendant No. 1

Name	Megan Picket
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Job or Title <i>(if known)</i>	Windham School District
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Street Address	P. O. Box 40
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City and County	Huntsville,
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State and Zip Code	Texas 77342
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Telephone Number	(936) 291-5300
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E-mail Address <i>(if known)</i>	
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Defendant No. 2

Name	Jana Gaffney
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Job or Title <i>(if known)</i>	Principal
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Street Address	3 Jester Road
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City and County	Richmond, Fort Bend
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State and Zip Code	Texas 77406
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Telephone Number	(281) 277-7000
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E-mail Address <i>(if known)</i>	jana.gaffney@wsdy.org
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Defendant No. 3

Name	N/A
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Job or Title <i>(if known)</i>	
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Street Address	
----------------	--

City and County	
-----------------	--

State and Zip Code	
--------------------	--

Telephone Number	
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E-mail Address <i>(if known)</i>	
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Defendant No. 4

Name	N/A
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Job or Title <i>(if known)</i>	
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Street Address	
----------------	--

City and County	
-----------------	--

State and Zip Code	
--------------------	--

Telephone Number	
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E-mail Address <i>(if known)</i>	
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C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	Beaford H. Jester III Unit
Street Address	3 Jester Road
City and County	Richmond, Fort Bend County
State and Zip Code	Texas 77406
Telephone Number	(281) 277-7000

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)



Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)



Other federal law *(specify the federal law)*:



Relevant state law *(specify, if known)*:



Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☐ Termination of my employment.
- ☐ Failure to promote me.
- ☒ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☒ Other acts *(specify)*: hostile work environment

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)
On 3/21/2023, Mrs. Gaffney began a series of counseling, corrective actions and formal writeups to fire me

C. I believe that defendant(s) *(check one)*:

- ☐ is/are still committing these acts against me.
- ☒ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☒ race African American female
- ☐ color
- ☐ gender/sex
- ☐ religion
- ☐ national origin
- ☒ age *(year of birth)* 1963 *(only when asserting a claim of age discrimination.)*
- ☒ disability or perceived disability *(specify disability)*
Adhd, learning disability and anxiety

E. The facts of my case are as follows. Attach additional pages if needed.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

3/21/2023 - Ms. Gaffney told me that I didn't call in in time to miss a day of work. When going forward, Ms. Kichamu needed to call in at least two hours ahead of time. She didn't treat others this way. The administrative assistant and teachers were encouraged to take time off and take care of their personal plans-like home repairs, vacations, and sick spouses. Only me and another elderly black female whom she fired were always disciplined. In April of 2023, Ms. Gaffney asked the district Student Advisor to come for a visit; hoping that she would side with her that I was not completing my duties. She was told that it takes a year in which Mrs. Gaffney refused to give me time to learn my duties. The results of this evaluation provided that I was progressing in my job and Mrs. Gaffney didn't know how to sort the list to enroll the upcoming enrollees. The final straw came when Mrs. Gaffney wrote me up for an error she

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)* January 12, 2024

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☐

issued a Notice of Right to Sue letter, which I received on *(date)* 07/19/2024.

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☒

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

The final event took place on June 16, 2023, when Mrs. Gaffney wrote me up for reviewing a CHANGES 3 roster for student eligibility. After reviewing the write up, and discussing it with the administrative assistant who has several years of experience, we concluded that Mrs. Gaffney put in the incorrect date and that is the reason the enrollment did not match up to what she expected. Even experienced Student Advisors make mistakes. It always noted and corrected and possibly discussed; but not put on paper.

Her comments of me not answering I-60's or meeting daily deadlines was due to me performing the role of testing coordinator and helping her with various duties. One of the employees stated, "it was unfair that I didn't get a chance to learn my job as a student advisor, because I was always testing".

The evidence concludes that Mrs. Gaffney had made up in her mind to start termination proceedings as she had terminated another elderly black female employee, Ms. Sharon Barham for not being competent on the computer.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

Based on the plaintiff's race, age, disability and failure to let the employee transfer and continue in their job, I am seeking a trial by jury on all issues that are triable, and that the court grant other relief, including injunctions, compensatory, punitive and treble damages, costs, and attorney's fees. Due to her actions, she has led me to believe that I will forever doubt my ability to do anything, lose a counseling position making 86,000 a year, retire early and live off of my savings, emotional distress, job performance issues, and no longer living with my daughter and grandson with significant career and personal setbacks.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: _____

Signature of Plaintiff _____

Printed Name of Plaintiff _____

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> EEOC 460-2023-07487 </div> <div style="display: flex; justify-content: space-between;"> FEPA </div>	
Texas Workforce Commission Civil Rights Division		and EEOC	
State or local Agency, if any			
I Name (indicate Mr., Ms., Mrs., Miss, Mx., Dr., Hon., Rev.) Ms. Penny B. Kichamu		Home Phone (832) 977-0603	Year of Birth 1963
Street Address 2002 S Mason Road Apt 1226 KATY, TX 77450			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name WINDHAM SCHOOL DISTRICT		No. Employees, Members 501+ Employees	Phone No. (936) 291-5351
Street Address 3 Jester Rd Richmond, TX 77406			
Name		No. Employees, Members	Phone No.
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON Age, Disability, Retaliation		DATE(S) DISCRIMINATION TOOK PLACE <div style="display: flex; justify-content: space-between;"> Earliest Latest </div> <div style="display: flex; justify-content: space-between;"> 11/14/2022 08/31/2023 </div>	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): On November 14, 2022, I began employment with the company Windham School District. I had worked there in the past and was encouraged to apply for this position. Therefore, I was qualified to do a good job based on my knowledge of the company, experience, support from district administrative student advisors, and education. On August 31, 2023, I didn't renew my contract for fear of being fired for inaccurate performance evaluation. Before my separation, comments were made, and I was often belittled about all of my actions. A significant event was when I was out sick for an infectious disease (doctor notes were submitted), I was called slow by Ms. Janna Gaffney, Principal.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct. Digitally Signed By: Ms. Penny B. Kichamu 01/12/2024 <div style="text-align: right;">Charging Party Signature</div>		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

EEOC Form 5 (11/09)

<p align="center">CHARGE OF DISCRIMINATION</p> <p align="center">This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p align="center">EEOC 460-2023-07487</p> <p align="center">FEPA</p>
<p align="center">Texas Workforce Commission Civil Rights Division and EEOC</p> <p align="center">_____ State or local Agency, if any</p>	
<p>I believe that I have been discriminated against because of my age (60) disability and in retaliation for complaining of unlawful employment practices, in violation of the Age Discrimination in Employment Act (ADEA) and the Americans with Disabilities Act Amendment Act (ADAAA).</p>	

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY – When necessary for State and Local Agency Requirements</p>
<p>I declare under penalty of perjury that the above is true and correct.</p> <p>Digitally Signed By: Ms. Penny B. Kichamu</p> <p>01/12/2024</p> <p align="right"><i>Charging Party Signature</i></p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p>

CP Enclosure with EEOC Form 5 (11/09)

PRIVACY ACT STATEMENT: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.